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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,569	02/04/2004	Ralph Ellis Grier	802659-0002	3722

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EXAMINER

GUTMAN, HILARY L

ART UNIT PAPER NUMBER

3612

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/771,569

Applicant(s)

GRIER, RALPH ELLIS

Examiner

Hilary Gutman

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 11, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 3-10 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 11, 15, and 16, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by EP '510.

EP 184510 discloses an apparatus for operating first and second commodity trailer hopper trap doors 3, 4, comprising: a support frame (such as the walls seen in Figures 2 and 3) extending between a first end and second end; first and second driveshaft assemblies 9 rotatably connected to the support frame proximate the first and second ends, respectively, wherein the first and second driveshaft assemblies 9 are configured to be coupled to the first and second commodity trailer hopper trap doors 3, 4, respective; a single motor assembly 13 attached to the support frame; and first and second linking mechanisms 7a, 8a coupled between the motor assembly and the first and second driveshaft assemblies, respectively; wherein the motor assembly is operable to move the first and second linking mechanisms 7a, 8a to thereby rotate the first and second driveshaft assemblies, respectively, and thereby operate the first and second commodity trailer hopper trap doors, respectively.

With regard to claim 2, the apparatus further comprises first and second engagement mechanisms 11, 12 operable to couple the first and second linking mechanisms, respectively, to the first and second driveshaft assemblies, respectively.

With regard to claim 11, the first driveshaft assembly comprises a lobed handle 14 coupled to the first driveshaft assembly for allowing manual rotation of the first drive shaft assembly.

For claim 15, EP '510 discloses an apparatus for operating first and second commodity trailer hopper trap doors 3, 4, comprising: first and second means 7a, 8a, 7b, 8b for operating first and second commodity trailer hopper trap doors respectively; means 13 for driving the operating means; means (such as walls seen in Figures 2 and 3) for supporting the operating and driving means; and first and second means 11, 12 for linking the driving means to the first and second operating means, respectively.

With regard to claim 16, EP '510 further comprises first and second means (not numbered, shown in Figures 2 and 3) for engaging the first and second linking means 11, 12 with the first and second operating means 7a, 8a, 7b, 8b, respectively.

Allowable Subject Matter

3. Claims 13-14 are allowed.
4. Claims 3-10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 12/20/04 have been fully considered but they are not persuasive.

With regard to EP 018450, the applicant argues that the reference does not disclose a motor assembly and further that element 13 is not a motor assembly but simply a threaded rod

Art Unit: 3612

which does not constitute a motive force. The examiner disagrees and believes that with a manual force input by a user upon the wheels 14, the element 13 can act along with the wheels as a motive force to move drive shaft 9 and open or close the hopper doors.

Secondly, with regard to the argument that there is no linking mechanism, the examiner points to elements 7a and 8a of the EP '450 reference. These "levers" link to the element 13 to assist in opening or closing the hopper doors and therefore constitute a linking mechanism.

With regard to claim 2, the applicant states that there is no disclosure of any engagement or disengagement ability of elements 11 and 12 in the EP '450 reference. The examiner disagrees and believes the EP '450 reference discloses all of the elements of claim 2 as broadly recited and interpreted. Specifically, first and second engagement elements or mechanisms 11 and 12 are operable to couple the first and second linking mechanisms 7a, 8a, respectively, to the first and second driveshaft assemblies 9, respectively.

For claim 15, the applicant goes on to argue there is no means for driving the operating means in the EP '450 reference since there is no motor or driving element. The examiner disagrees and believes that the manual linkage can be considered a means for driving.

In response to applicant's argument that the reference fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a motor or driving element for claim 15) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

With respect to claim 16, the applicant argues the reference fails to disclose any mechanism for engaging or disengaging the driving shafts of the apparatus. The examiner

Art Unit: 3612

disagrees and believes that first and second means (not numbered, shown in Figures 2 and 3) for engaging the first and second linking means 11, 12 with the first and second operating means are clearly shown. In view of the foregoing response to the applicant's arguments the rejections set forth above are hereby maintained.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8. Any response to this final action should be mailed to:

Box AF
Assistant Commissioner for Patents
Washington, D.C. 20231


or faxed to:

(703) 872-9327, (for formal communications; please mark "EXPEDITED
PROCEDURE")

or:

(703) 746-3515, (for informal or draft communications, please clearly label

"PROPOSED" or "DRAFT").


Hilary Gutman
January 24, 2005